



Appeal Decision

Site visit made on 22 March 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 15 June 2021

Appeal Ref: APP/V2635/W/20/3256438

Fullwood House, Church Lane, East Winch PE32 1NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jonny George against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref: 20/00422/F, dated 16 March 2020, was refused by notice dated 20 May 2020.
 - The development proposed is the construction of a single storey dwelling on a plot sited north of Fullwood House.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The results of the 2020 Housing Delivery Test (HDT) were published on the 19 January 2021. The results show that King's Lynn and West Norfolk Council delivered 94% of its housing requirement over the preceding 3 years. The main parties have been afforded the opportunity to comment on the implications of these results for this appeal and, where a response has been received, I have had regard to the comments in my decision.

Main Issue

3. The main issue is whether the appeal site is an appropriate location for residential development having regard to the development plan and national policy.

Reasons

4. The development plan comprises the King's Lynn and West Norfolk Borough Council Local Development Framework Core Strategy (CS) which was adopted in 2011 and the Borough Council of King's Lynn and West Norfolk Site Allocations and Development Management Policies Plan (SADMPP) which was adopted in 2016. CS Policy CS01 sets out the Council's spatial strategy for the borough in order to focus development towards the most sustainable locations in accordance with the settlement hierarchy as defined by CS Policy CS02.
5. Within CS Policy CS02, East Winch is classified as a Rural Village, however, the appeal site lies some distance from the defined settlement boundary and therefore, for the purposes of applying planning policy, the appeal site is regarded as being located within the countryside. However, given the proximity of Fulwood House, a dwelling, I do not consider that the appeal site would be 'isolated' for the purposes of the National Planning Policy Framework (the

Framework)¹, since it cannot be said that it would be far away from other places, buildings or people, albeit the location is rural.

6. Policy DM2 of the SADMPP sets out that new development within the countryside will be more restricted and will be limited to that identified as suitable in rural areas by other policies of the local plan. Rural workers' housing is listed as an exceptional category of development within the countryside and is set out under Policy DM6 of the SADMPP. It sets out four limbs which must be satisfied. In particular, the first limb states that it must be clearly established that there is an existing functional need requiring occupants to be adjacent to their enterprises in the day and at night.
7. The appeal site is a parcel of land located adjacent to a sand and gravel extraction quarry (the Quarry). The Quarry consists of a substantial area of land with a public right of way (PRoW) running alongside part of its edge. It is mainly bordered by raised earthworks adjacent to the PRoW and mature vegetation. Some occasional fencing is also stated to be in situ, albeit this was not evident to me at the time of my site visit. The main access into the Quarry appears to be from Wormegay Road and is controlled by a vehicular barrier. As a result, views into the Quarry are largely restricted from public viewpoints, albeit the appeal site itself is readily visible from the PRoW.
8. The primary concern of the appellant relates to the risk of trespass and crime. Whilst the appellant's financial investment within the business is acknowledged, there is little detail nor any substantive evidence regarding the suggested instances of trespass and criminal activities that have occurred. An instance of criminal damage to machinery is not said to have occurred at the Quarry but on neighbouring land. Comments about social media reports of theft of plant and machinery within the vicinity are generalised and vague.
9. In the absence of a continuous barrier around the site, unauthorised access on foot into the Quarry can be gained over the raised earthworks and in-between gaps within the vegetation and existing fencing. Nevertheless, it has not been put to me that any improvements to the boundary have been considered, nor any reasoning as to why these have not been implemented. There is currently no CCTV, alarm system or security lighting. Albeit the absence of a power supply is acknowledged, it is not clear to me why a connection to the electricity network or other alternative power sources cannot be undertaken, particularly given that such an option would be pursued if planning permission for the scheme were to be granted. Furthermore, it has not been demonstrated why the use of a loudspeaker or lighting to illuminate the Quarry site in order to warn off trespassers cannot be achieved remotely together with control of the access barrier to allow access to the site by employees returning outside of normal business hours.
10. Although reference has been made to the provision of a security gate and a roller shutter, it is not clear to me if these additional security measures have had any impact on reducing instances of trespass and criminal behaviour and whether they have been successful in providing additional protection to the business.
11. References to fly-tipping are noted and whilst I understand the appellant's frustration with these occurrences, to my mind, instances of fly-tipping are not

¹ Paragraph 79

of a scale that would justify the appeal scheme. Furthermore, I am not satisfied that the presence of the proposed dwelling positioned some considerable distance away from Wormegay Road and the entrance to the Quarry site would provide an adequate deterrent. In particular, the presence of Fullwood House has not prevented such incidents in the past.

12. Based upon the submitted evidence, in my view, the need to work long hours and the desire for security are not sufficient to demonstrate a functional need requiring an occupant to be adjacent to their premises day and night. I recognise the appellants desire to protect his business and the financial investment that he has contributed to it, and whilst living close to the Quarry site would undoubtedly be more convenient, I am not satisfied that the proposal meets the first limb of Policy DM6 of the SADMPP. As a consequence, it has not been necessary for me to consider the remaining provisions of SADMPP Policy DM6 and the proposed scheme fails to accord with the exceptional category of rural worker's housing.
13. For similar reasons, it has not been necessary to give any further consideration to a condition restricting occupation of the proposed dwelling by employees of the business as this would not overcome the issues I have identified above.
14. Accordingly, I conclude that there is no justification in this case for a new dwelling in the countryside where development plan policies would not normally permit one. The proposed development would conflict with CS Policies CS01, CS02, CS06 and CS08 together with SADMPP Policies DM2 and DM6, the requirements of which are set out above.

Other Matters

15. There is dispute between the parties as to whether Fullwood House is capable of providing a dwelling for the appellant. However, given my findings above, it has not been necessary for me to come to a definitive view on this matter. I have therefore not given this matter any further consideration.
16. There would be no adverse impact on highway safety, the living conditions of neighbouring occupiers, refuse and recycling collection and newspaper deliveries. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
17. Turning to the benefits of the appeal scheme, there would be some economic benefits in the form of construction jobs and use of local materials. However, such economic benefit would be modest and for a temporary period.
18. The proposed development would make use of an under-used parcel of land. Improvements to its visual condition through the removal of waste items and an upgrade to the existing track access would be limited benefits of the appeal scheme. The contribution of an additional dwelling to housing supply and the release of the appellant's existing home into the housing market would be benefits, however, given the limited scale of the proposal, the associated benefits would be limited and they would be insufficient to outweigh the conflict with the development plan.
19. The 2020 Housing Delivery Test for King's Lynn and West Norfolk Council indicates that it achieved 94% of housing delivery measured against its housing target over the last 3 years. This is considerably more than the 75% benchmark used to define substantial under delivery in the Framework.

20. Even if there were to be a shortage of housing, as alleged by the appellant, as the latest Housing Delivery Test result is greater than 75%, neither of these considerations results in policies which are the most important for determining the application being considered out-of-date in the context of paragraph 11 of the Framework.
21. The inclusion of a living roof and some additional planting would generate some enhancements to biodiversity, although there is little detail to quantify the extent of this. Therefore, I have given this benefit limited weight.
22. My attention has been drawn to the proposed dwelling being capable of being low profile, well fitted within the existing vegetation, use of traditional local materials and the inclusion of features such as AFT insulated raft foundations, an insulated concrete perimeter wall system, surface water harvesting, grey water recycling and air source heating. The provision of a low-carbon dwelling would contribute to the environmental strand of sustainable development, however, even in the absence of similarly designed dwellings within the locality, I am not satisfied that the inclusion of these features demonstrates that the proposal would be an example of truly outstanding or innovative design as is prescribed within paragraph 131 of the Framework. Given the scale of the proposed dwelling, any environmental benefits associated with the scheme would be limited.
23. Even though the proposal would reduce the number of trips made by the appellant in a private motor vehicle to commute to and from his place of work, the general absence of services and facilities in the location of the appeal site would nonetheless necessitate the reliance on the use of a private motor vehicle. Therefore, I am not persuaded that there would be any environmental benefit likely to arise as a result of the appeal scheme.
24. I have had regard to the appellant's desire to move to the village where he grew up, achieve a better work-life balance and the suggestion that nearby property is not affordable to the appellant. I note the efforts made to build up the business and the desire to expand, but personal circumstances can seldom outweigh general planning considerations and do not outweigh the harm I have identified above. I have taken into account the comments made by interested persons and I note these demonstrate the family business is well regarded and there is support for the appeal scheme. However, none of these lead me to alter my decision.
25. Although reference is made to a historic grant of planning permission, there is no evidence before me to demonstrate that it was implemented, nor what the scheme was for in that instance. As such, I cannot be satisfied that a valid fall-back position exists.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, I conclude that there are no material considerations in this case to justify a decision otherwise than in accordance with the development plan. Accordingly, the appeal is dismissed.

E Brownless

INSPECTOR